

Service Date: March 17, 1975

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF the complaint filed)	UTILITY DIVISION
by petitions against the Combined)	
Hungry Horse Water Co., Inc.)	DOCKET NO. 6239
)	ORDER NO. 4172
)	
)	

* * * * *

A hearing on the above entitled matter was held in the Town Hall at Hungry Horse, Montana, on the 22nd day of August, 1974, commencing at the hour of 10:00 AM. The aforementioned hearing was held after proper notice, in accordance with the Montana Administrative Code, before Ernest C. Steel, Chairman of the Commission, duly appointed Hearing Examiner; to hear this matter.

APPEARANCES: Representing Water Company

Marshall Murray, Attorney at Law, Box 899, Kalispell, MT 59901.

Representing Petitioners and Consumers of Water

David L. Astle, Attorney at Law, 1103 South Main, Kalispell, MT 59901.

Consumer Counsel

William E. O'Leary, representing Montana Consumer Counsel, 330 Fuller Avenue, Helena, MT 59601, appearing on behalf of the consuming public of the State of Montana as required by Art. XIII, Section 2, Montana Constitution and Chapter 65 of the Laws of 1973.

For The Board

Terry J. Hanson, Counsel

Dennis Crawford, Administrator, Utility Division

Before

Ernest C. Steel, Chairman, duly appointed
Hearing Examiner

At the public hearing, various and numerous consumers of the Hungry Horse Water Company testified as to various matters concerning their petition and complaints with said company.

At the conclusion of the testimony by consumers and complainants, representatives of the company took the stand and testified on their own behalf.

Concerning interim financing and financing from the Farmers Home Administration (FHA), a representative of FHA appeared and testified concerning the matters herein.

WHEREAS, the Hearing Examiner has considered the matters and things contained within the above entitled docket, the Examiner after considerable deliberation has determined that the motion submitted by the Montana Consumer Counsel, on the 12th day of September, 1974, which has been identified Exhibit A and which is attached hereto and made a part hereof, be granted as representative of the Hearing Examiner's proposed order.

PROPOSED ORDER

IT IS PROPOSED that the Commission conduct an examination of the books of the Combined Hungry Horse Water Co., Inc., in order to determine the exact nature of the operations previously conducted by that utility.

IT IS FURTHER PROPOSED that the Commission make an investigation into whether or not part of the improvement made under interim financing and with possibility of FHA financing, are necessary for the benefit of the company's consumers in the Hungry Horse area and whether or not the amount of such improvements should probably be assumed by the stockholders of the company themselves.

IT IS FURTHER PROPOSED that an inspection be performed on the water system by the Commission's engineer.

IT IS FURTHER PROPOSED that pursuant to the Montana Administrative Code, this is a proposed order. Any party shall have the opportunity to file exceptions to this proposed order, present briefs and make oral arguments to the Commission, provided such exceptions, briefs or requests for oral argument are presented to the Commission within thirty (30) days within the service date of this proposed order.

IT IS FURTHER PROPOSED that a full, true and correct copy of this order be sent forthwith by first class mail to all parties appearing herein or testifying at the public hearing.

DONE in Helena, Montana, this 3rd day of January, 1975.

ERNEST C. STEEL, Hearing Examiner

ATTEST:

GAIL E. BEHAN
Secretary

(Seal)

DEPARTMENT OF PUBLIC SERVICE REGULATION
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In the Matter of the complaint
filed by petitions against the
Combined Hungry Horse Water
Co., Inc.

DOCKET NO. 6239

ORDER NO . 4 1 7 2

OBJECTIONS TO PROPOSED ORDER
BY
COMBINED HUNGRY HORSE WATER CO., INC.

COMES NOW Marshall Murray, Attorney at Law, Box 899, Kalispell, Montana, 59901, representing the Combined Hungry Horse Water Co., Inc. and on behalf of said utility makes the following objections to the Proposed Order of the Public Service Commission dated 3 January 1975:

1. Objects to the adoption of the Motion by the Montana Consumer counsel on the grounds and for the reasons that neither the docket nor the record showed the Consumer Counsel was petitioned to appear in this matter or that he appeared on behalf of any consumers or any other interested parties.

2. Objects to the investigation by the Commission into the question of whether or not part of the improvement made under interim financing and with possibility of FHA financing was necessary for the benefit of the company's consumers, as this question does not deal with the matter of rates, which is the sole authority of the Public Service Commission in matters of this type and which question is not now before the Commission. An examination is premature.

3. Objects to the proposal that an inspection be performed on the water system by the Commission's engineer, inasmuch as this is not a proper function of the Public Service Commission, there being no question relative to rates involved with said inspection.

4. Objects to the hearing of the foregoing objections by the Public Service Commission on the grounds and for the reasons that said Public Service Commission, and particularly none of its existing members were present or heard the matters presented at said hearing and could not possibly weigh these objections without a transcript having been prepared and read by them in advance. In this respect the Combined Hungry Horse Water Co., Inc. demands that a full and complete transcript of said hearing be prepared and submitted and read by the Commissioners before these objections be ruled upon. Further, the Combined Hungry Horse Water Co., Inc. demands that a free copy of said transcript be delivered to the counsel for the water company so that these objections can be properly argued after examination of said transcript.

DATED this 9th day of April, 1975.

COMBINED HUNGRY HORSE WATER CO., INC.

Marshall Murray, Attorney at Law
P. O. BOX 899, Kalispell, Montana
Attorney for said utility.

DEPARTMENT OF PUBLIC SERVICE REGULATION

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In the Matter of the Complaint
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ORDER NO. 4172

REPLY OF MONTANA CONSUMER COUNSEL TO
OBJECTIONS TO PROPOSED ORDER BY
COMBINED HUNGRY HORSE WATER COMPANY INC.

On behalf of the Montana Consumer Counsel, Geoffrey L. Brazier, and as attorney of record on behalf of the Montana Consumer Counsel in the above docket, I hereby file a reply to the objections to the proposed order previously filed by the attorney of record for the Combined Hungry Horse Water Company, Inc. In reply to the objections previously raised I submit the following:

1. Counsel for the utility misinterprets the status of the Montana Consumer Counsel in the above Docket. The Montana Consumer Counsel appeared through authority granted that office through RCM 1947 70-707 pursuant to requests filed with that office by consumers of the above utility. Secondly, the record will show, contrary to that objection submitted by the utility, that the Consumer Counsel did indeed appear on behalf of consumers of the above utility. Hence the objection is without merit and should be disregarded.

2. In reply to that objection submitted by the above utility the Montana Consumer Counsel asserts that the objection is neither supported by existing Montana law nor does it reflect an understanding of the effect of any financing by a utility in relation to the establishment of rates to be paid by the utility's customers. RCM 1947 70-119 specifically obligates the Commission to investigate any utility not only in regard to the reasonableness of rates but whether the utilities regulations, practices or acts, or any service of the utility is in any respect unreasonable, insufficient, or unjustly discriminatory, or whether any service is inadequate. Thus the Commission has far more broad authority than is suggested by the utility. Further, even assuming for the sake of discussion that the utility's rates only maybe examined any utility financing which would obligate a utility consumer for a period of 30 years from the date of financing is a matter which the Commission is authorized to examine. Because of the above the Consumer Counsel requests that the objections submitted be denied.

3. Adequacy of service and establishment of a proper transmission system is a matter well within RCM 1947 70-119. As a result it is not correct to allege that such an examination is not a proper function of the Commission.

Inasmuch as the availability of a transcript or not does not properly effect this participant no comment is submitted relative to objection number 4 of the utility.

Because of the above, and because of the misinterpretation of existing state law, the Montana Consumer Counsel, a participant in the above Docket hereby moves the Commission to

disregard the objections of the utility in Docket No. 6239 and proceed as, originally indicated in an examination of the company's finances and utility water system.

DATED this 21st day of April, 1975.

MONTANA CONSUMER COUNSEL,
GEOFFREY L. BRAZIER.

By: _____
William E. O'Leary
Attorney at Law
P.O. Box 225
Helena, MT 59601
Attorney for said participant